

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 46 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GAURANG HARIHARBHAI BHATT

Versus

AHMEDABAD TELECOM DISTRICT

Appearance:

MR CH VORA for Petitioner

MR JD AJMERA for Respondent No. 1, 2, 3, 4, 5

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 04/08/97

ORAL JUDGEMENT

Rule.

By way of this Special Civil Application, the petitioner has challenged the order dated 17.12.1996 passed by General Manager(West), Ahmedabad Telecom District-respondent No.1, whereby representation of the petitioner regarding excessive telephone bills dated 11.10.1995 and 11.12.1995 has been rejected. Mr J D

Ajmera, learned Addl. Central Government Standing Counsel for the respondents contended that the petitioner has alternative remedy by way of appeal against the said order. I find no order on record against which an appeal can be filed. There is only a communication at Annexure 'N' under the signature of Public Relations Officer who says "he has been directed to say that after full enquiry, the petitioner's representation has been rejected".

2. The say of the petitioner is that the said communication is not accompanied by a reasoned order rejecting the representation. Mr J D Ajmera, learned Addl. Central Government Standing Counsel does not dispute the fact that the copy of the order has not been made available to the petitioner. He however, submits that the practice is that the parties are only intimated the decision. I strongly disapprove this sort of practice. There is of course, a system in Courts that the copy of the order is made available on making appropriate application by the party demanding. It may be noticed that in Courts, there are statutory rules providing the method of supplying certified copy of an order. In fact, the orders in the Courts are pronounced in the presence of the parties. In case the judgement is reserved, a date for pronouncement of the order is given. Thus, the order in any case, is pronounced in the presence of the parties. But where order is not passed in the presence of the parties and where there are no specific rules, no mechanism for supply of the copy of the order, then it is obligatory on the departmental authorities not only to pass a speaking order, but also to communicate the reasoned order. Either the authority deciding itself may inform the party giving reasons in the communication or the letter conveying the decision is accompanied by a simple copy of the reasoned order. The sort of communication at Annexure 'N' only reflects the autocratic approach of the officers as if their decision is final. They must understand that their decisions are not only subject to review by the higher departmental authorities but also above all subject to judicial review. In absence of reasons, the parties remain in dark, as they are not aware of the reason for the decision against them. This deprives them of raising contention before the higher forum within or outside the department. In such circumstances, the parties are left with no remedy but to approach the High Court under Article 226 of the Constitution of India. Such sort of practice does not cause inconveniences only to the parties concerned, but also unnecessary over-burden to the Court. At the first instance, instead of availing

the departmental remedy, the petitioners are compelled to approach the High Court and secondly even when they approach the High Court and the matter is placed before the Court for admission, there being no reason for taking an adverse decision, the Court is left with no option but to issue notice calling upon the said authorities to disclose the reason. The departmental machineries are asked to move, approach the lawyer, file affidavits, production of records, and then number of hearings before the Court. It goes without saying that on show-cause reply by the department are filed after number of adjournments. Thus, this autocracy or lethargy on the part of the departmental officers not giving a reasoned order costs very heavy financially and otherwise. It also unnecessarily over-burdens the Courts. Thus, the time has come that such sort of practice should be viewed seriously. The department should also take appropriate steps for taking departmental disciplinary action against authorities adopting such autocratic course. After-all even the Judges of the Apex Court and the High Courts, sign the orders and judgments. The copies thereof are made available to the parties.

3. In view of the aforesaid, this Special Civil Application is allowed on this short ground with costs. The order as communicated under Annexure-'N' dated 17.12.1996 rejecting the petitioner's representation is quashed and set aside. Respondent No.1 is directed to pass a fresh speaking order. In view of the autocratic approach of the respondent, the petitioner is entitled to the cost of this petition which is assessed as Rs.5000/-. The respondent is further directed to deposit the cost in the High Court within a period of two months from the date of receipt of the writ. The cost is payable to the petitioner.

Rule made absolute.

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m.s.p.

transferred